

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ORIGINAL

UNION PACIFIC RAILROAD COMPANY,

Petitioner,

v.

CITY OF BELVIDERE, ILLINOIS,

Respondent.

Petition of Union Pacific Railroad
Company ("UP") seeking review and
determination as to the adequacy of
railroad signalization at the
intersection of South State Street
and the trackage of the UP (Crossing
Number 174482H) at Milepost 78.28
because of roadway, median and
vegetation modifications undertaken
by the City of Belvidere, Illinois.

Docket No. T02-0082

RECEIVED
OCT 25 2002

Illinois Commerce Commission
RAIL SAFETY SECTION

UNION PACIFIC RAILROAD COMPANY RESPONSE
TO STAFF RECOMMENDATION

NOW COMES the petitioner, Union Pacific Railroad Company (the "UP"), a Delaware Corporation, successor-in-interest to Chicago and North Western Railway Company, f/k/a Chicago and North Western Transportation Company, a Delaware Corporation, engaged in interstate commerce by railroad, by and through its attorney, Mack H. Shumate, Jr., and responds to the Staff Recommendation concerning the above referenced matter, dated October 9, 2002 and received by the UP on October 15, 2002.

The UP does not disagree with the background information supplied by the Illinois Commerce Commission's, ("Commission"), Rail Safety Section. However, it is important to note that the UP witness did not testify that the existing warning devices do not violate any Commission rule or regulation, or the Manual of Uniform Traffic

DOCKETED
OCT 25 2002

Control Devices with regard to the location of the railroad signals. He indicated that he was not aware of any such violation. It is the UP's position that the subject crossing signalization with the modification made by the City of Belvidere, ("City"), appears to be in violation of 92 Illinois Administrative Code 1535.335. (Copy attached.)

Specifically at Subsection "a", the second to last sentence provides the distance from the signals to the edge of pavement shall not be less than six feet or more than 12 feet except when the pavement has curb and guttering, then the signals may be located four feet one inch but not less from the face of curb. These distances are to the center of the mast. By shifting the edge of the curb toward the center of the highway on all four quadrants, the City has effectively moved the curb and gutter to a distance which is beyond four feet one inch from the face of the curb at the subject crossing.

The signals on East Pleasant Street were not modified and therefore still remain in compliance with the subject Commission regulation. However, the masts with cantilevers on South State Street are no longer within four feet one inch of the edge of the new curb and gutter constructed by the City when it modified the sidewalk, curb and gutter in 1986. This is clearly apparent on the photographs, which were submitted by the UP with its petition and by the photographs provided by the City at the hearing.

If the Commission is of the opinion that the existing railroad signalization system is adequate for the subject crossing, a variance from the requirements of 92 Illinois Administrative Code 1535.335 should be made part of the Commission's Order in this matter.

In order for the UP to avail itself of the protection of preemption as to adequacy of the railroad signalization system at the subject crossing, a finding that the existing system is adequate or an Order requiring the City to pay for a modification of the system to bring it into compliance is required. As testified to at the hearing, the UP did not modify its tracks, its crossing or its signalization system to create the existing situation at the intersection of the UP's trackage and South State Street in the City of Belvidere. The situation was created by the modification of South State Street by the City.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY



Mack H. Shumate, Jr.
Attorney for Petitioner

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Attorney for petitioner
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1535.335 Location of Signals

- a) For two directional traffic, one signal is to be located upon each side of the track or groups of tracks except that, where local conditions so require, a greater number of signals or flashing light units may be employed. The signals shall be placed on the right hand side of the highway as viewed by a traveler approaching the crossing unless local conditions require different arrangement. The distance from the signals to the railroad and to the edge of the pavement will be governed by local conditions, but in general the signals shall be located not more than 15 feet from the near rail except where a point in the centerline of the highway opposite the signal would be less than 10 feet therefrom. In general, the signals shall be located not less than 8 1/2 feet from the nearest rail. The distance from the signals to the edge of pavement shall not be less than 6 feet or more than 12 feet except when the pavement has curb and guttering, then the signals may be located 4 feet 1 inch but not less from the face of curb. These distances are to the center of the mast.
- b) On multilane highways extending on either side of a median strip at least 8 feet 2 inches in width one additional flashing unit as shown in Figure 5 (Appendix B, Illustration E) shall be placed on each side of track or group of tracks, in such manner as to provide appropriate warning to vehicles approaching crossing in traffic lane on left side of pavement, back lights not required.
- c) Unless otherwise ordered by the Commission, on highways four or more lanes in width with no additional flashing units as set forth in Section 1535.335(b), supplemental sets of flashing light signals shall be mounted on appropriate cantilever arms (Figure 6 (Appendix B, Illustration F)) in such manner that vehicles using outer lanes, back lights required.
- d) Where conditions require, special signals such as side lights, illuminated "no left turn" and "no right turn" signs (Figure 7, (Appendix B, Illustration G)) may be installed.

(Source: Amended at 11 Ill. Reg. 19027, effective November 15, 1987)

1535.340 Direction of Indication

In general and except as otherwise stated elsewhere herein, lamp units shall be provided to give an indication in both direction along the highway. Local conditions, such as one-way highway traffic, etc., may require a different arrangement. The lamp units shall be equipped with peep holes in the sides thereof. Hoods should be used on peep holes except in special cases where they may interfere with a train crew's observation of the light emanating therefrom.

1535.341 Mounting Lamp Units

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Number 174482H) at Milepost 78.28)	
because of roadway, median and)	
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by the City of Belvidere, Illinois.)	

CERTIFICATE OF SERVICE

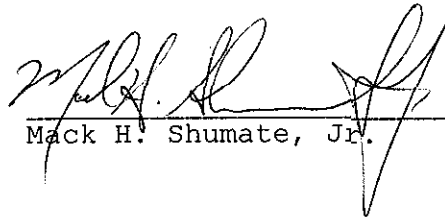
The undersigned certifies that on October 23, 2002, a copy of the foregoing instrument was served upon the following parties by depositing said instrument in the U.S. Mail, with postage thereon fully prepaid, at 101 North Wacker Drive, Chicago, Illinois 60606, addressed as follows:

STACEY C. HOLLO
Special Assistant Attorney General
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, IL 62764

MICHAEL STEAD
Railroad Safety Program Administrator
Illinois Commerce Commission
527 East Capitol Avenue, 2nd Floor
Springfield, IL 62794

CRAIG LAWLER
Director of Public Works
City of Belvidere
210 Whitney Boulevard
Belvidere, IL 61008

CHARLES G. POPP, ESQ.
City of Belvidere - Office of Municipal Attorneys
215 South State Street
Belvidere, IL 61008



Mack H. Shumate, Jr.

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TO ALL PARTIES OF RECORD:

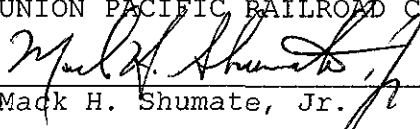
NOTICE OF FILING

Notice is hereby given that the attached Response to Staff Recommendation has been filed in the above entitled matter before the Illinois Commerce Commission in Springfield, Illinois at the offices of the Commission as follows: Kevin Sharpe, Director of Processing, 527 East Capitol Avenue, Springfield, Illinois 62701, by mailing the same to the Commission at the aforementioned addresses this 23rd day of October, 2002 by placing the same in the United States mail at 101 North Wacker Drive, Chicago, Illinois at or about 5:00 p.m. on said date.

In addition, copies of the aforementioned Response to Staff Recommendation of Union Pacific Railroad Company ("UP") seeking review and determination as to the adequacy of railroad signalization at the intersection of South State Street and the trackage of the UP (Crossing Number 174482H) at Milepost 78.28 because of roadway, median and vegetation modifications undertaken by the City of Belvidere, Illinois were mailed to those parties on the Service List attached hereto.

Dated this: 23rd day of October, 2002.

UNION PACIFIC RAILROAD COMPANY


Mack H. Shumate, Jr.

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